



August 1, 2002

To: Members, Water Use Efficiency Subcommittee
From: Scott McCreary and Bennett Brooks, CONCUR
Re: Summary: June 24, 2002, Water Use Efficiency Subcommittee Meeting
Cc: Tom Gohring, Water Use Efficiency Program Manager

Below is a brief discussion summary of the Water Use Efficiency Subcommittee meeting held June 24, 2002, in Sacramento. This memorandum is divided into five sections: (1) Background; (2) Participation; (3) Meeting Materials; (4) Discussion Summary; and, (5) Next Steps.

I. BACKGROUND

The second meeting of the WUE Subcommittee was held June 24, 2002. The primary purpose of the meeting was to introduce and discuss two staff proposals: one focused on agricultural WUE milestones; the second, on an urban water conservation certification framework.

II. PARTICIPATION

The following subcommittee members or designated alternates participated in the meeting: Co-chairs David Guy and Frances Spivy-Weber, Eugene Andreuccetti, Mary Ann Dickinson, Chris Dundon, Conner Everts, Lloyd Fryer, Richard Harris, Bill Jacoby, Joe Lima, William Miller, Ed Osann, Stephen Ottemoeller, Polly Smith (for Roberta Borgonovo), Ed Thornhill and Mike Wade. Ex-officio participants included Luana Kiger with DWR, Tracy Slavin with USBR and Matt Reeve with CDFA (for Steve Shaffer).

Also in attendance were the following staff and facilitation support members: CALFED staffer Eugenia Laychak, WUE Program Manager Tom Gohring, CALFED consultant Mark Roberson, CALFED WUE staffer Laurie Luke, and Scott McCreary and Bennett Brooks, with CONCUR.

Finally, about 15 to 20 members of the public attended the meeting.

III. MEETING MATERIALS

The following meeting materials were developed and distributed to support the WUE Subcommittee's deliberations:

In advance:

- Agenda/Discussion Notes
- Background Materials
 - Final Description of the Water Use Efficiency (WUE) Subcommittee
 - Key Outcomes Memorandum for March 6, 2002, Subcommittee Meeting
- Memorandum: Progress To-Date on WUE Priority Implementation List
- Memorandum: Staff Proposal for Ag WUE Milestones
- Memorandum: Staff Proposal for Urban Water Conservation Certification

As handouts:

- Updated WUE Subcommittee Roster
- Overview: Final Funding Recommendations for WUE 2002 Proposal Solicitation Package
- Overview: CALFED Common Assumptions for Water Management Analysis
- Memorandum: Process for Making Committee Recommendations to CALFED Agencies
- Memorandum: CUWA Proposal Regarding Urban Water Conservation Certification Project Assurances/Incentives
- Overview: WUE ROD Funding Apportionment and Projected Stage 1 Expenditures

Materials will, as appropriate, be updated and posted on the CALFED web page.

IV. DISCUSSION SUMMARY

Welcome, Introductions and Updates

The meeting – the second of the WUE Subcommittee – began with a brief review of the agenda, self-introductions and a number of WUE-related updates. Updates focused on the following topics:

WUE Loan/Grant Funding Update. Marsha Prillwitz with the Department of Water Resources provided an update on the status of water use efficiency loan/grant funding. Among the points noted: (1) DWR awarded \$9.59 million to a total of 29 projects; (2) the bulk of the funding went to urban projects, as there is currently no grant funding available for agriculture (except for feasibility studies); and, (3) future rounds will give applicants more time to prepare responses. Several Subcommittee participants voiced concerns regarding the lack of agricultural WUE grant funding.

Water Management Strategy Update. Noel Williams with CH2M Hill provided a status report on the development of CALFED's Water Management Strategy, emphasizing in particular assumptions related to water use efficiency. The presentation generated significant comments, with Subcommittee members focusing

their remarks on a few broad themes, including: (1) the importance of ensuring ongoing coordination between WUE and the Water Management Strategy; (2) the value of incorporating conservation potential estimates as part of the “common condition” versus as part of the alternatives analysis; (3) the potential impact of funding uncertainties on conservation potential; and, (4) the need for the Water Management Strategy analysis to use “good science” and, in those instances where solid data does not currently exist, acknowledge the limitations and articulate a strategy for embedding better information over time.

Update on WUE Priority Implementation Items. T. Gohring provided a brief update on WUE priority implementation items, emphasizing in particular the status of the Independent Review Panel on Ag WUE Appropriate Measurement. In his update, T. Gohring noted that the Panel is expected to meet for its final deliberations in late August or September. He further emphasized that the Panel’s deliberations will be preceded by a series of outreach meetings intended to brief interested stakeholders on the substantive issues to be discussed by the Panel. T. Gohring is to provide a further status report at the WUE Subcommittee’s next meeting.

Subcommittee Membership. T. Gohring introduced the newest WUE Subcommittee members: Conner Everts of the Environmental Justice Coalition for Water (ag environmental justice); Ed Osann with NRDC (environmental representative); Mike Wade (AWMC Executive Director); Michael Conrad of Golden State Irrigation Services, Inc. (ag business); Richard Harris of East Bay MUD (urban water supplier); and Michael Stanley-Jones with the Silicon Valley Toxics Coalition (urban environmental justice). D. Guy noted that there are still ag and urban business vacancies and encouraged Subcommittee members to identify candidate members.

Legislative Update. Subcommittee members provided updates on several legislative initiatives, including: (1) the AB331 Task Force and the clothes washer water standards (both moving forward); and (2) AB2734 (retrofit on resale), which is being pulled back for the current session and is expected to move forward in 2003. F. Spivy-Weber also emphasized the importance of WUE Subcommittee members weighing in with the appropriate legislators regarding the need for WUE funding.

Focus Topic: Ag WUE Milestones/Urban Conservation Certification Framework

A. WUE Subcommittee Role

The primary focus of the meeting – and the bulk of the discussions – centered on the Subcommittee’s review of two staff proposals: one related to agricultural WUE milestones, the second related to an urban conservation certification framework.

CALFED staff introduced both topics by first reviewing the WUE Subcommittee’s role in considering and forwarding proposals for eventual consideration by CALFED agencies. In reviewing CALFED’s guidelines, T. Gohring and Eugenia Laychak, the CALFED consultant responsible for staffing BD-PAC deliberations, emphasized the following points:

All Subcommittee recommendations must be forwarded to the BD-PAC, which then has the responsibility to determine whether to adopt such recommendations and forward them on to the CALFED Policy Group.

In developing its recommendations for BD-PAC consideration, the Subcommittee should specify a requested action and provide appropriate background, including an overview of subcommittee discussions and outcomes.

Subcommittee recommendations can be framed as either: (1) a recommendation to adopt; or, (2) a recommendation to consider, with specific issues highlighted for discussion by the BD-PAC. The Subcommittee also has the option to request staff to revise its draft for WUE Subcommittee reconsideration at a later date.

Both co-chairs (D. Guy and F. Spivy-Weber) strongly encouraged the Subcommittee to put forward as strong a recommendation as possible in forwarding materials to the BD-PAC for its subsequent consideration.

B. Overarching Discussion

The Subcommittee's review of the two staff proposals triggered extensive and productive deliberations, with both the agricultural- and urban-focused representatives using the opportunity to better understand the rationales and technical approaches driving the different proposals.

The discussion generated a number of cross-cutting themes. In particular, participants voiced a strong interest in better understanding: (1) the potential impact of current WUE funding levels on the approaches and milestones outlined in both staff proposals; (2) the process staff will use to articulate and address technical uncertainties and then incorporate better information into the WUE Program; and, (3) similarities and differences between the two proposals and strategies for determining whether they present a "balanced" approach.

The discussion also generated a number of proposal-specific comments and questions. Primary issues raised and discussed are detailed below. (As well, attached to this summary is a brief document – in question and answer format – that addresses the key questions raised during the discussion and in subsequent e-mail communications.)

C. Discussion Related to the Staff Proposal on Agricultural WUE Milestones

A number of participants voiced support for the approach to and structure of the Ag WUE milestones, commenting in particular on the linkage between funding levels and results, the inclusion of potential barriers to implementation and the list of possible responses. Other comments focused on: (1) interest in recalibrating the milestones to account for lower-than-expected WUE funding levels (2) concerns that milestones now included as part of a voluntary program could be made regulatory in the future; and, (3) interest in better understanding the role of the Agricultural Water Management Council. L. Billingsley with USBR also noted that the CPV criteria may be revised to incorporate quantifiable objectives.

The discussion also clarified several, specific questions raised by participants. These included:

- **Funding.** CALFED staff reiterated that there is currently no grant funding available to support the pursuit of Quantifiable Objectives.
- **Certification.** CALFED staff explained that the programmatic Ag WUE Milestones are proposed as an equivalent to certification, not as a step towards certification. T. Gohring did note, however, that the Ag WUE Milestones call for the approach to be re-evaluated if milestones are not being met.

D. Related to the Staff Proposal on Urban Water Conservation Certification.

The presentation on the Urban Water Conservation Certification staff proposal generated a number of comments. Several Subcommittee participants emphasized the importance of developing language – similar to the Ag WUE Milestones – that articulates urban water conservation benefits (in aggregate and, if possible, by BMP), potential barriers and possible responses. Other comments focused on: (1) ensuring that the certification program’s incentives and disincentives are structured in a manner that enable CALFED to provide assistance to help water suppliers return to compliance; (2) water supplier interest in putting forward certification as part of a balanced, comprehensive CALFED-wide approach; and, (3) the importance of refining critical data uncertainties over time and updating the framework to reflect the revised data. CUWA Executive Director Walt Petit also introduced CUWA’s proposal to incorporate into the framework an incentive that links certification with conservation elements of appropriate permitting and approval processes. The Subcommittee did not have an extensive discussion on the topic.

The discussion also generated a number of questions, including: (1) what is the rationale for setting compliance requirements at 20,000 connections for retailers, but 3,000 acre feet for wholesalers; and, (2) is certification statewide or only focused on areas directly or indirectly hydrologically connected to the Bay-Delta. Again, these questions and others are addressed in the attached question-and-answer document.

E. Preliminary Direction

Based on the discussions, the Subcommittee agreed to reconvene in August to further consider the proposals and develop a recommendation to the BD-PAC. Participants agreed to use the intervening weeks to:

- **Vet the staff proposals with other stakeholders.** Participants agreed to discuss the proposals with affected stakeholder communities. Additionally, CALFED is to be conducting public outreach meetings related to the urban certification framework.
- **Consider the CUWA proposal regarding additional incentives.** T. Gohring is to foster discussion among CUWA agencies, other water suppliers, environmental representatives and key CALFED management to further explore the permit-incentive concept proposed by CUWA.

- **Incorporate specific revisions suggested to the staff proposals.** CALFED staff and consultants will update the draft staff proposals to reflect the changes suggested during the meeting. Primary edits to the Ag WUE Milestones piece will focus on better articulating the expected impact of current WUE funding realities on the stipulated milestones. Primary edits to the Urban Certification Framework piece will focus on integrating language related to: (1) the impact of current funding realities; (2) articulation of, at a programmatic level, urban water conservation potential, barriers and possible responses; (3) loan and other assistance eligibility for water suppliers not in compliance; and (4) possible BMP 10 revisions.
- **Provide additional explanation regarding the staff-proposed approaches.** CALFED staff is to prepare materials in advance of the August meeting that: (1) address questions posed at the meeting and in subsequent e-mails; and, (2) articulate staff's perspective on how the proposals move the program forward in a balanced fashion.

F. Public Comment

One speaker strongly recommended that the Program incorporate additional language into the proposals to more clearly articulate the roles both the Urban and Agricultural Councils' play in helping water suppliers implement cost-effective conservation actions, as well as identifying the potential barriers. The speaker stressed that this information offers important context for stakeholders interested in or impacted by the staff proposals but not familiar with the councils.

V. NEXT STEPS

Based on the discussions, participants agreed to a series of next steps intended to facilitate the WUE Subcommittee's deliberations. Specific next steps are outlined below.

Meeting Schedule:

Participants agreed to hold the next WUE Subcommittee meeting in mid-August. The meeting timing – Thursday, August 8, from 9 a.m. to 2 p.m. in San Diego – is intended to ensure the Subcommittee's follow-on deliberations related to the Ag Milestones/Urban Certification staff proposals can be considered at the Bay-Delta PAC's September meeting. A detailed agenda will be developed at a later date, but Subcommittee members have already suggested the following topics for discussion:

- Review WUE funding status
- Develop recommendation to the BD-PAC regarding
 - Ag WUE Milestones
 - Urban Conservation Certification Framework
- WUE Program-related updates

Information to be developed by Subcommittee Members:

Meeting participants agreed to undertake the following in support of the Subcommittee's efforts:

- Provide the name and contact information for remaining WUE Subcommittee vacancies (ag and urban business reps)
- Forward written questions and/or comments on the two staff proposals to CONCUR
- Vet the staff proposals with other stakeholders

Information to be prepared for Subcommittee Members:

CALFED staff agreed to undertake the following in support of the Subcommittee's efforts:

- Update the staff proposals to reflect recommendations discussed during the Subcommittee meeting.
- Prepare and distribute answers to clarifying questions submitted by Subcommittee members.
- Facilitate, as appropriate, small-group discussion related to the CUWA incentives proposal.
- Develop an overview of WUE Program funding status.

ATTACHMENT 1

Urban MOU Certification & Agricultural Milestones Proposals: **CLARIFYING QUESTIONS/ANSWERS**

Below are brief responses developed by CALFED Water Use Efficiency Program in response to questions raised during the June 24 WUE Subcommittee meeting and in subsequent e-mail correspondence regarding the staff proposals on Urban MOU Certification and Agricultural Water Use Efficiency Milestones. The responses are grouped into three categories: general questions, urban certification-specific questions and agricultural milestones-specific questions.

General

1. **What is the relationship between the urban certification and agricultural milestones proposals?**

Response: The two proposals together constitute a package of assurances that staff believes will help it define and track the effectiveness of the WUE program. The proposals are not intended to be identical. Rather, they are intended to put forward relevant and realistic ag- and urban-specific benchmarks that will help stakeholders and policymakers assess balanced implementation within WUE and across the other CALFED Program elements.

2. **What impact will funding shortfalls have on the proposed Urban Certification and Agricultural Milestone initiatives? How will the Program account for any funding shortfalls?**

Response: Both proposals assume that the WUE Element will be funded at or near the levels articulated in the August 2000 CALFED Record of Decision. The WUE Element does recognize, however, that neither federal nor state funding is certain; in fact, grant funding is currently below ROD-stipulated levels. Accordingly, the Program is committed to putting in place a process – both for urban and agricultural assurances -- that attempts to articulate a correlation between various funding levels and potential outcomes. As well, the Program intends to identify and account for funding shortfalls when tracking program progress and determining possible responses.

Urban Water Conservation Certification

3. **How/when will programmatic milestones for the urban certification program be established?**

Response: CALFED will initiate a dialogue among a diverse set of stakeholders for the purpose of establishing a set of programmatic milestones by which to evaluate urban certification program success. This effort – patterned after the approach

embedded in the agricultural milestones – will also articulate expected outcomes, possible barriers and potential responses. CALFED does not view the creation of these milestones to be a prerequisite for WUE Subcommittee or BD-PAC consideration of the proposed Urban Certification framework.

4. How were the retailer and wholesaler cut-off levels determined?

Note: This question arose out of concerns of fair/equal requirements between retailers and wholesalers. Full implementation requirements are proposed for wholesalers delivering >3,000 AF and retailers with >20,000 connections. Retailers with between 3,000 and 20,000 connections would be required only to submit reports. Assuming each connection delivers one acre-foot annually, this suggests that small wholesalers are being held to a different standard than small retailers.

Response: The 3,000 AF cutoff for wholesalers and the 3,000 connection cutoff for retailers were chosen to match existing Urban Water Management Plan cutoffs. Water suppliers above these levels are already required by the UWMPA to file a water conservation report to DWR. The proposed cutoff level for retailers required to have their reports certified was raised in an attempt to balance the initial implementation burden placed on the proposed certifying entity (the State Board) with the desire to have the greatest impact on water conservation possible. The Work Group settled on 20,000 as a proposed cutoff to achieve this balance. Approximately 100 retail suppliers fall into this category serving approximately 2/3 of the state's population. Re-evaluation of this cutoff will occur after the certification process has been in operation for 8 years. There are approximately 30 wholesalers meeting the > 3,000 AF in average annual deliveries. A higher cutoff level for wholesalers separating those that have to report from those that have to have their reports certified as well was not considered because of the limited number of very small wholesalers and because MOU compliance requirements for wholesalers are not expected to create a significant burden on the State Board.

5. Will the certification program be implemented statewide?

Response: Consistent with CALFED's focus, the current staff draft calls for the certification program to impact only those retailers who have a direct or indirect hydrologic connection to the Bay-Delta. CALFED recognizes that the legislature may opt to broaden the program's scope.

6. Should wholesalers who do not actually provide services (e.g., treatment, facilities) to retailers be subject to certification?

Note: This question addresses the case of wholesalers who only serve other sub-wholesalers.

Response: The current MOU contains several wholesaler-only BMPS (#3, 4, 7, 8, 10, 11, and 12). BMP 10, in particular, currently requires wholesalers to provide support (e.g., financial, technical), as appropriate and beneficial, to their retailers in order to advance water conservation efforts and effectiveness. The California Urban Water Conservation Council (CUWCC) is currently in the process of revising BMP 10. In situations where multiple levels of wholesalers exist, BMP 10 also currently allows for the establishment of regional programs to be designed and/or implemented cooperatively by wholesale and retail suppliers. [See Urban Certification proposal

sections “MOU Compliance Criteria” (p. 7-9) and “Relationships between wholesale and retail urban water suppliers” (p. 14-15).] CALFED will work with the appropriate entities to structure program regulations in a manner that acknowledges and eliminates potential redundancies and inconsistencies among wholesalers, sub-wholesalers and their retailers.

7. What is the current status of revisions to BMP 10? What is the relationship between revisions to BMP 10 and implementation of an urban conservation certification program?

Response: A CUWCC committee comprised of wholesale and retail water agency representatives, as well as environmental stakeholders, is currently working to revise the language of BMP 10. The committee’s work is focused on clarifying the intent and requirements of BMP10, and not on expanding its scope. The committee hopes to present proposed revisions to the Council plenary by December 2002. Resolution of this issue remains one of several outstanding tasks to be accomplished before implementation of a certification process can take place.

8. Is it problematic to proceed with an Urban MOU Certification program at this time given the remaining unresolved issues and concerns about the need for balanced implementation across and within all CALFED program elements?

No. WUE staff has identified several critical issues that need to be addressed prior to the enactment of legislation and subsequent implementation. These issues include: (1) resolving MOU-related technical/operational uncertainties; (2) incorporating a balanced and compelling package of incentives and disincentives; (3) integrating an urban certification framework with existing California Public Utilities Commission (CPUC) processes; (4) refining urban MOU certification program costs and funding estimates; and, (5) assessing Program balance, both within WUE and across all CALFED elements. The proposed framework puts forward a suggested timeframe for CALFED policy-making bodies to engage and resolve these issues. [See Urban Certification proposal Section 2 on “Implementation-Related Considerations” (p. 2-4).]

9. What are the most recent cost estimates for administering an urban certification program?

Response: CALFED estimates that the total cost to administer the program will be between \$1.9 - \$2.6 million per year. This includes an estimated \$1.3 - \$1.8 million per year for the State Board and \$600,000 - \$800,000 per year for CUWCC. These costs are equivalent to an average of \$0.25 to \$0.40 per urban water user connection per year.

10. How will costs for supporting an urban MOU certification program be apportioned to wholesalers in situations where multiple levels of wholesalers (i.e., “sub-wholesalers”) exist?

Response: The staff proposal does not specify a recommended funding split among CALFED agencies, retailers and wholesalers. CALFED expects a funding plan to be developed as part of any legislative drafting process.

11. Will financial and technical assistance be made available to those water suppliers needing assistance to achieve compliance with the MOU?

Response: At the outset of the program, all water suppliers will be considered eligible for WUE financial and technical assistance. Once a water supplier is determined to be out compliance, that supplier will no longer be eligible for WUE grant funding. It is the intent of the program, however, to continue offering technical assistance, loans and feasibility study grants in order to help water suppliers return to compliance.

Agricultural Milestones

12. How were the target thresholds for achievement of Quantifiable Objectives (QO) determined? Is there a process for revising these targets?

Response: CALFELD developed target thresholds by evaluating agricultural WUE grant applications to-date – expected costs, projected water savings, etc. – and extrapolating potential results based on full WUE funding. The target thresholds are a first-order approximation. Accordingly, the Program incorporates a vigorous adaptive management component that, among other tasks, is intended to evaluate and revise, as necessary, the preliminary targets.

13. Why might a regulatory approach for achieving QO targets be considered appropriate if the grant program fails to do so?

Response: The WUE Program believes that a properly designed, voluntary, incentive-driven program is the most appropriate mechanism for achieving Quantifiable Objectives. If the grant program is not generating the expected CALFED benefits, however, then the adaptive management pillar of the program will trigger an evaluation intended to (1) determine the causes for non-attainment; and, (2) recommend the appropriate responses. A regulatory response is only one of many varied responses that would be under consideration.

14. What is the link between achieving target thresholds and assurances of progress in other CALFED program areas (e.g., storage)?

Note: This question addresses the concern that failure to meet WUE target thresholds (e.g., for water quality and ecosystem benefits) may inappropriately prevent advancement in other CALFED program areas.

Response: CALFED is committed to the balanced implementation of the various Program elements. The WUE Program believes the agricultural milestones are an appropriate way for stakeholders and policymakers to track ag WUE implementation and effectiveness. The progress of WUE in comparison to other CALFED Programs (such as storage) is the purview of the full BD-PAC as part of its ongoing consideration of overall program balance.

15. Are water districts expected to pursue all Quantifiable Objectives at this time or are some QOs not yet quantified?

Note: This question arose out of specific concerns that QO 171 ("Provide flow to improve ecosystem conditions on the SJR - Friant Dam to Mendota Pool") might be premature. In this instance, FWUA and the NRDC Coalition have a set of principles of agreement regarding restoring flows to this reach of the San Joaquin River. However, at this point a target flow for the San Joaquin River has not been specified.

Response: Water districts are only expected to pursue those Quantifiable Objectives that CALFED has been able to articulate (in other words, translate into flow needs at a specified time and place). To-date, CALFED has articulated about 60 QOs. If, as in the case with QO-171, there is no target flow, a QO cannot be specified and districts would not be expected to pursue that particular QO.